

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

WYETH,)	
)	
)	
Plaintiff,)	
)	Civil Action No.: 06-222 (JJF)
v.)	
)	
IMPAX LABORATORIES, INC.,)	
)	
Defendant.)	

DECLARATION OF ARIE M. MICHELSON, ESQ.

I, Arie M. Michelsohn, Esq., hereby declare under penalty of perjury as follows:

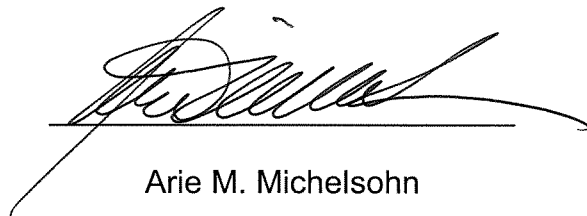
1. I am an associate with the law firm of Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P. I am one of the attorneys representing Wyeth in the current litigation.
2. Attached hereto as Exhibit 1 is a true and correct copy of the U.S. District Court Civil Docket in *Wyeth v. Teva Pharmaceuticals, U.S.A., Inc. and Teva Pharmaceutical Industries Ltd.* Civil Action No. 03-CV-1293 (WJM) in the U.S. District Court for the District of New Jersey, retrieved from the Court online through LexisNexis CourtLink on Wednesday, August 9, 2006.
3. Attached hereto as Exhibit 2 is a true and correct copy of the cover page and pages 99-101 of the Transcript of Motions Before The Honorable Patty Shwartz, U.S.M.J., held on May 9, 2005 (listed as Docket item No. 85 of Exhibit 1 herein).
4. Attached hereto as Exhibit 3 is a true and correct copy of a July 31, 2006 letter from Samuel F. Ernst to Linda A. Wadler, along with a cover facsimile transmittal

sheet showing transmittal at 3:59 pm PDT (6:59 pm EDT) and FAXSERVE cover e-mail showing transmittal by the Finnegan, Henderson FAXSERVE at 7:02 pm EDT.

5. Attached hereto as Exhibit 4 is a true and correct copy of an August 4, 2006 letter from Samuel F. Ernst to Linda A. Wadler, along with a cover e-mail showing transmittal at 4:44 pm EDT.

6. Attached hereto as Exhibit 5 is a true and correct copy of an August 8, 2006 letter from Robert A. Pollock to Daniel N. Kassabian.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on this 24th day of August 2006.



Arie M. Michelsohn

CERTIFICATE OF SERVICE

I, Julia Heaney, hereby certify that on August 24, 2006 I electronically filed the foregoing with the Clerk of the Court using CM/ECF, which will send notification of such filing(s) to the following:

Mary B. Matterer
MORRIS, JAMES, HITCHENS & WILLIAMS, LLP

and I further certify that copies were caused to be served upon the following in the manner indicated:

BY HAND

Mary B. Matterer
Morris, James, Hitchens & Williams
222 Delaware Avenue
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Wilmington, DE 19899

BY FEDERAL EXPRESS

M. Patricia Thayer
John M. Benassi
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Heller Ehrman LLP
4350 La Jolla Village Drive
San Diego, CA 92102

/s/ Julia Heaney (#3052)

Julia Heaney (#3052)

EXHIBIT 1

US District Court Civil Docket

U.S. District - New Jersey
(Newark)

2:03cv1293

Wyeth v. Teva Pharmaceuticals

This case was retrieved from the court on Wednesday, August 09, 2006

Date Filed: 03/24/2003	Class Code: 12BD, CLOSED, SCHEDO
Assigned To: Judge William J Martini	Closed: yes
Referred To: Magistrate Judge Ronald J Hedges	Statute: 28:1338
Nature of suit: Patent (830)	Jury Demand: None
Cause: Patent Infringement	Demand Amount: \$0
Lead Docket: None	NOS Description: Patent
Other Docket: None	
Jurisdiction: Federal Question	

Litigants

Wyeth
Plaintiff

Attorneys

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Teva Pharmaceuticals USA, Inc
Defendant

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Teva Pharmaceutical Industries, Ltd
Defendant

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Teva Pharmaceuticals USA, Inc
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Wyeth
Counter Defendant

Teva Pharmaceutical Industries, Ltd
Counter Claimant

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Wyeth
Counter Defendant

Date	#	Proceeding Text
03/24/2003	1	COMPLAINT filed FILING FEE \$ 150.00 RECEIPT # 314443 (dr) Additional attachment(s) added on 9/23/2005 (ev,). Additional attachment(s) added on 1/3/2006 (ev,). (Entered: 03/26/2003)
03/26/2003	2	NOTICE of Allocation and Assignment filed. (NEWARK - Judge HAYDEN - Magistrate Judge SCHWARTZ) (NM) (dr) (Entered: 03/26/2003)
03/26/2003	--	SUMMONS(ES) issued for TEVA PHARMACEUTICALS (20 Days) (Mailed to Counsel) (dr) (Entered: 03/26/2003)
04/07/2003	3	RETURN OF SERVICE executed as to TEVA PHARMACEUTICALS 3/27/03 Answer due on 4/16/03 for TEVA PHARMACEUTICALS (ar) (Entered: 04/09/2003)
04/14/2003	4	APPLICATION by TEVA PHARMACEUTICALS and Clerk's Order extending time to answer. Answer due 5/1/03 for TEVA PHARMACEUTICALS (ar) (Entered: 04/17/2003)
05/01/2003	5	STIPULATION and ORDER, extending time , setting answer due for 6/2/03 for TEVA PHARMACEUTICALS (signed by Magistrate Judge Patty Shwartz) (NM) (jd) (Entered: 05/05/2003)
05/08/2003	6	ORDER, setting scheduling conference for 9:30 6/24/03 (signed by Magistrate Judge Patty Shwartz) (NM) (JB) (Entered: 05/13/2003)
06/02/2003	7	ANSWER to Complaint and COUNTERCLAIM by TEVA PHARMACEUTICALS; w/cert. of serv. (DD) Additional attachment(s) added on 9/23/2005 (ev,). Additional attachment(s) added on 9/23/2005 (ev,). (Entered: 06/02/2003)
06/02/2003	8	AMENDED SCHEDULING ORDER, amending [6-1] order setting scheduling conference for 9:30 6/24/03 , resetting scheduling conference for 7/30/03 (signed by Magistrate Judge Patty Shwartz) (NM) (dc) (Entered: 06/05/2003)
06/23/2003	9	ANSWER by WYETH to [7-2] counter claim with cert. of service. (bl) (Entered: 06/25/2003)
07/28/2003	10	CERTIFICATION of Kevin J. McKenna on behalf of plt WYETH and in support of applicatin for pro hac vice admission of Robert D. Bajefsky, Basil J. Lewris, Linda A. Wadler and Barbara Rudolph

(ak) (Entered: 07/30/2003)

07/29/2003 13 ORDER, for Robert D. Bajefsky, Esq. Basil J. Lewris, Esq. Linda A. Wadler, Esq. and Barbara Rodolph Esq. to appear pro hac vice (signed by Magistrate Judge Patty Shwartz) (NM) (JB) (Entered: 07/31/2003)

07/30/2003 11 CERTIFICATION of ALLYN Z. LITE, on behalf of TEVA PHARMACEUTICALS Re: in support of Admission Pro Hac Vice of J. Anthony Downs, Carl, M. Defranco, Roland H. Schwillinski and Lana A. Shvartsman. (JB) (Entered: 07/31/2003)

07/30/2003 12 ORDER, for admission of J. Anthony Downs, Carl M. Defranco, Roland h. Schwillinski and Lana A. Shvartsman. to appear pro hac vice on behalf of defts. (signed by Magistrate Judge Susan D. Wigenton) (NM) (JB) (Entered: 07/31/2003)

07/30/2003 14 PRETRIAL SCHEDULING ORDER setting Discovery cutoff 9/2/04; Amending of pleadings on 12/31/03; Final pretrial conference 7/28/04; Final pretrial order to be submitted on or before 7/22/04; Telephone status conference 11/6/03; 1/15/04; 3/25/04; 7/6/04; 10/28/04; 2/17/05, and 5/19/05. (signed by Magistrate Judge Patty Shwartz)(NM) (dc) Additional attachment(s) added on 8/7/2006 (ev,). (Entered: 08/01/2003)

10/23/2003 17 CONSENT ORDER, amending [14-1] Pretrial scheduling order , setting telephone status conferences for 11/6/03; 1/15/04; 3/25/04; 7/6/04; 10/28/04; 2/17/05; 5/19/05; that the final pretrial conference shall be conducted on 7/28/05 at 1:00 p.m., that pla shall initiate the telephone calls, and that any unresolved discovery disputes shall be brought to the Court's attention no later than 2/17/05. (signed by Magistrate Judge Patty Shwartz) (NM) (dc) (Entered: 11/10/2003)

10/31/2003 15 Notice of MOTION *** (sealed) Motion w/certsvc. (Brief/PO Subm) (dc) (Entered: 11/07/2003)

10/31/2003 16 DECLARATION *** (sealed) w/exhibits. (dc) (Entered: 11/07/2003)

11/06/2003 18 ORDER, re: discovery, and setting a telephone conference on 1/15/04 etc. (signed by Magistrate Judge Patty Shwartz) (NM) (dc) (Entered: 11/13/2003)

11/20/2003 19 ORDER, that any response to the motion for leave to file an amended complaint shall be submitted to the Undersigned no later than 12/11/03. The Court will advise the parties if any reply brief will be necessary. Oral argument shall take place on 12/22/03 at 11:00 a.m. ; that a telephone conference is set for 12:00 1/15/04, and that all other terms of the Orders filed 7/30/03 and 11/6/03 shall remain in full force and effect. (signed by Magistrate Judge Patty Shwartz) (NM) (dc) (Entered: 12/03/2003)

11/24/2003 -- Mail to Allyn Zissel Lite re: Order dated 10/23/03, RTS. Remailed 2nd attempt. (dc) (Entered: 12/08/2003)

12/22/2003 20 ORDER re: certain discovery requests, & setting Telephone Conference set for 1/15/2004 12:00 PM in Newark - Courtroom 10 before Magistrate Judge Patty Shwartz.. Signed by Judge Patty Shwartz on 12/22/03. (sr,) (Entered: 01/06/2004)

12/23/2003 22 AMENDED COMPLAINT *** (sealed).(ak,) (Entered: 01/07/2004)

12/23/2003 23 CERTIFICATE OF SERVICE by Angela Meglio of Amended Complaint (sealed) (ak,) (Entered: 01/07/2004)

01/07/2004 21 ORDER re granting [15] Motion for leave to file amended complt. as to pltf Wyeth. Signed by Judge Patty Shwartz on 12/22/03. (sr,) (Entered: 01/07/2004)

01/12/2004 24 APPLICATION for a request for service abroad of judicial or extrajudicial documents pursuant to the Hague Convention Procedures, w/summons. by pltf, WYETH. (dc,) Modified on 1/20/2004 (dc,). (Entered: 01/20/2004)

01/12/2004 25 Declaration of Arie M. Michelsohn on behalf of WYETH in support of 24 Application for a request for service of process abroad, w/attachment & certsvc. (dc,) (Entered: 01/20/2004)

01/14/2004 26 STIPULATION AND PROTECTIVE ORDER, re: discovery and production of material, etc., w/exhibit. Signed by Judge Patty Shwartz on 1/13/04. (dc,) (Entered: 01/23/2004)

01/15/2004 -- Minute Entry for proceedings held before Judge Patty Shwartz : Telephone Conference held on 1/15/2004. (aa,) (Entered: 01/16/2004)

01/27/2004 27 ORDER, granting pltf's application for a request for service of process abroad.Signed by Judge Patty Shwartz on 1/23/04. (dc,) (Entered: 01/27/2004)

01/27/2004 -- International Summons Issued as to TEVA PHARMACEUTICAL INDUSTRIES, LTD., for service in Israel. Days Due - 20. (dc,) (Entered: 01/27/2004)

02/04/2004 31 Letter request permitting Teva USA to file its answer to the Amended Complaint out of time. from Michael E. Patunas. (Attachments: # 1 Proposed Order)(dc,) (Entered: 02/13/2004)

02/05/2004 28 LETTER ORDER: setting Telephone Conference for 2/6/2004 01:00 PM before Magistrate Judge Patty Shwartz. Signed by Judge Patty Shwartz on 2/5/04. (aa,) (Entered: 02/06/2004)

02/05/2004 30 ADDENDUM TO STIPULATION AND PROTECTIVE ORDER, etc. Signed by Judge Patty Shwartz on 2/5/04. (aa,) (Entered: 02/09/2004)

02/06/2004 29 ORDER granting leave for Teva USA to file an Answer to the Amended complaint no later than 2/9/04. Signed by Judge Patty Shwartz on 2/6/04. (aa,) (Entered: 02/09/2004)

02/06/2004 -- Minute Entry for proceedings held before Judge Patty Shwartz : Telephone Conference held on 2/6/2004. (aa,) (Entered: 02/11/2004)

02/09/2004 32 ANSWER to Amended Complaint, COUNTERCLAIM against WYETH by TEVA PHARMACEUTICALS USA, INC.. (Attachments: # 1 Certsvc.)(dc,) (Entered: 02/20/2004)

02/13/2004 36 SUMMONS Returned Executed by WYETH. TEVA PHARMACEUTICAL INDUSTRIES, LTD. served on 2/4/2004, answer due 2/24/2004. (dc,) (Entered: 02/27/2004)

02/19/2004 35 LETTER ORDER w/attached copies of documents re: service abroad . Signed by Judge Patty Shwartz on 2/19/04. (aa,) (Entered: 02/25/2004)

02/24/2004 33 ANSWER to Amended Complaint, COUNTERCLAIM against WYETH by TEVA PHARMACEUTICAL INDUSTRIES, LTD..(PATUNAS, MICHAEL) (Entered: 02/24/2004)

02/24/2004 34 CERTIFICATE OF SERVICE by TEVA PHARMACEUTICAL INDUSTRIES, LTD. re 33 Answer to Amended Complaint, Counterclaim (PATUNAS, MICHAEL) (Entered: 02/24/2004)

02/26/2004 37 ANSWER to Counterclaim, by WYETH, w/certsvc. (dc,) (Entered: 03/01/2004)

03/25/2004 -- Minute Entry for proceedings held before Judge Patty Shwartz : Telephone Conference held on 3/25/2004. (aa,) (Entered: 03/31/2004)

05/11/2004 38 ORDER granting admission pro hac vice for Elaine Herrmann Blais. Signed by Judge Patty Shwartz on 5/10/04. (dc,) (Entered: 05/13/2004)

05/11/2004 39 Certification of Michael E. Patunas in Support of Admission Pro hac vice of Elaine Herrmann Blais (Attachments: # 1 Certf. Elaine Herrmann Blais# 2 P/O)(dc,) (Entered: 05/17/2004)

05/19/2004 40 ORDER GRANTING PRO HAC VICE ADMISSION of Elaine Hermann Blais, Esq.. Signed by Judge Patty Shwartz on 5/18/04. (dc,) (Entered: 05/19/2004)

06/23/2004 41 Certification of Michael E. Patunas in Support of Application for Admission Pro Hac Vice of Henry C. Dinger on behalf of TEVA PHARMACEUTICAL INDUSTRIES, LTD., TEVA PHARMACEUTICALS USA, INC. Re 33 Answer to Amended Complaint, Counterclaim, 32 Answer to Amended Complaint, Counterclaim. (PATUNAS, MICHAEL) (Entered: 06/23/2004)

06/23/2004 42 AFFIDAVIT of Henry C. Dinger in Support of Application for Admission Pro Hac Vice by TEVA PHARMACEUTICAL INDUSTRIES, LTD., TEVA PHARMACEUTICALS USA, INC.. (PATUNAS, MICHAEL) (Entered: 06/23/2004)

06/23/2004 43 PROPOSED DOCUMENT by TEVA PHARMACEUTICAL INDUSTRIES, LTD., TEVA PHARMACEUTICALS USA, INC.. (PATUNAS, MICHAEL) (Entered: 06/23/2004)

06/25/2004 44 ORDER granting pro hac vice admission of Henry C. Dinger. Signed by Judge Patty Shwartz on 6/24/04. (dc,) (Entered: 06/25/2004)

07/07/2004 45 ORDER setting various deadlines addressing certain discovery issues. Discovery due by 10/8/2004. Telephone Conference set for 8/5/2004 09:30 AM before Magistrate Judge Patty Shwartz. Signed by Judge Patty Shwartz on 7/6/04. (dc,) Modified on 7/8/2004 (dc,). (Entered: 07/08/2004)

07/28/2004 46 ORDER amending the Court's Order dated 7/6/04 to extend the deadline for the exchange of privilege logs from 8/5/04 to 8/19/04. Signed by Judge Patty Shwartz on 7/27/04. (dc,) (Entered: 07/29/2004)

07/30/2004 47 ORDER granting pro hac vice admission of Daryl L. Wiesen. Signed by Judge Patty Shwartz on 7/29/04. (dc,) (Entered: 08/02/2004)

07/30/2004 48 AFFIDAVIT of Daryl L. Wiesen by TEVA PHARMACEUTICAL INDUSTRIES, LTD.. (Attachments: # 1 Certification of Michael E. Patunas)(dc,) (Entered: 08/03/2004)

08/05/2004 -- Minute Entry for proceedings held before Judge Patty Shwartz : Miscellaneous Oral argument Hearing held on 8/5/2004. (aa,) (Entered: 08/18/2004)

08/09/2004 49 AMENDED PRETRIAL SCHEDULING ORDER: Telephone Status Conference set for 10/28/2004 12:00 PM before Magistrate Judge Patty Shwartz. Final Pretrial Conference set for 7/28/2005 01:00 PM before Magistrate Judge Patty Shwartz. Final Pretrial Order due by 7/22/05 at 4:00 p.m.. Amended Pleadings due by 12/31/2004. Discovery due by 1/31/2005. Signed by Judge

Patty Shwartz on 8/9/04. (dc,) (Entered: 08/11/2004)

08/10/2004 50 ORDER, Ordered that the requests to bifurcate issues of liability and willfulness for trial and to stay discovery on the issue of willfulness are denied; etc.. Signed by Judge Patty Shwartz on 8/9/04. (dc,) (Entered: 08/17/2004)

08/18/2004 51 TRANSCRIPT of Proceedings held on 08/05/04 before Judge Schwartz. PLEASE NOTE: The complete transcript of these proceedings is maintained in paper format on file in the Clerks Office. To request copies of this transcript, contact the Official Court Reporter or Transcription Service who prepared the transcript. (ce,) (Entered: 08/18/2004)

10/28/2004 -- Minute Entry for proceedings held before Judge Patty Shwartz : Telephone Conference held on 10/28/2004. (aa,) (Entered: 11/08/2004)

11/17/2004 52 Certification of Michael E. Patunas in Support of Admission Pro Hac Vice of Melissa L. Paddock on behalf of TEVA PHARMACEUTICAL INDUSTRIES, LTD., TEVA PHARMACEUTICALS USA, INC. Re 32 Answer to Amended Complaint, Counterclaim, 33 Answer to Amended Complaint, Counterclaim. (Attachments: # 1 Certification of Melissa L. Paddock in Support of Admission Pro Hac Vice)(PATUNAS, MICHAEL) (Entered: 11/17/2004)

11/17/2004 53 ORDER granting the application for the pro hac vice admission of Melissa L. Paddock. Signed by Judge Patty Shwartz on 11/17/04. (dc,) (Entered: 11/19/2004)

12/21/2004 54 ORDER, Ordered that by 12/28/04, the deft. shall submit a letter regarding the request to depose Mr. Manor; that by 12/22/04 the deft. shall submit a letter regarding the events that occurred at the deposition of a particular inventor that the deft. claims warrants reopening the deposition; that by 1/17/05, the pltf. shall provide the date of conception and reduction to practice; that the issues concerning the Rule30(b)(6) are moot; that the request to enlarge the number of depositions is denied w/out prejudice; that the request for an extension of time to complete fact discovery is granted; that the request that expert discovery be stayed pending the outcome of claims construction hearing is denied; that fact discovery shall be completed by 2/18/2005; etc... Signed by Judge Patty Shwartz on 12/21/04. (dc,) (Entered: 12/27/2004)

12/21/2004 -- Minute Entry for proceedings held before Judge Patty Shwartz : Telephone Conference held on 12/21/2004. (aa-sl,) (Entered: 01/03/2005)

01/05/2005 55 ORDER denying the request to compel the in-person deposition of Moshe Manor without prejudice, etc.. Signed by Judge Patty Shwartz on 1/4/05. (dc,) (Entered: 01/05/2005)

01/06/2005 56 APPLICATION/PETITION for by WYETH. (Attachments: # 1 Certification of Kevin J. McKenna in support of application for pro hac vice admission of Alan Wright, Esq.# 2 Certification of Alan Wright, Esq.# 3 Text of Proposed Order # 4 Certificate of Service)(MCKENNA, KEVIN) (Entered: 01/06/2005)

01/10/2005 57 ORDER granting pro hac vice admission of Alan Wright re 56 Application filed by WYETH. Signed by Judge Patty Shwartz on 1/7/05. (dc,) (Entered: 01/10/2005)

01/10/2005 -- Minute Entry for proceedings held before Judge Patty Shwartz : Telephone Conference held on 1/10/2005. (aa,) (Entered: 01/13/2005)

01/11/2005 58 ORDER limiting the objections made during depositions to those set forth in Fed.R.Civ.P.30(d); that the request to re-open the deposition of Ms. Sherman is granted; that the request that Wyeth produce the documents that Ms. Sherman reviewed before her deposition is denied; that the request to re-open the deposition of Dr. Deneale is denied at this time; etc.. Signed by Judge Patty Shwartz on 1/10/05. (dc,) (Entered: 01/11/2005)

01/14/2005 59 AMENDED ORDER re 58 Order . Signed by Judge Patty Shwartz on 1/13/05. (dc,) (Entered: 01/14/2005)

01/25/2005 60 NOTICE of Change of Address by KEVIN J. MCKENNA (Attachments: # 1 Cover letter filing Notice of Change of Address)(MCKENNA, KEVIN) (Entered: 01/25/2005)

01/28/2005 61 ORDER, Ordered that other than the deposition of Dr. Neumann, no other fact discovery may take place after 2/18/05. Signed by Judge Patty Shwartz on 1/28/05. (dc,) (Entered: 02/01/2005)

02/03/2005 -- Minute Entry for proceedings held before Judge Patty Shwartz : Telephone Conference held on 2/3/2005. (aa,) (Entered: 02/03/2005)

02/04/2005 62 AMENDED ORDER denying the request to expand the scope of Dr. Shteman's "reopened" deposition . Signed by Judge Patty Shwartz on 2/3/05. (dc,) (Entered: 02/04/2005)

02/09/2005 64 ORDER, Ordered that the request to conduct Dr. Blau's deposition on 2/23/05 other than the deposition of Dr. Neumann and Dr. Blau no other fact discovery may take place after 2/18/05. Signed by Judge Patty Shwartz on 2/9/05. (dc,) (Entered: 02/14/2005)

02/10/2005 63 TRANSCRIPT of Proceedings held on 12/21/2004 & 1/10/2005 before Judge Shwartz. PLEASE NOTE: The complete transcript of these proceedings is maintained in paper format on file in the Clerks Office. To request copies of this transcript, contact the Official Court Reporter or Transcription Service who prepared the transcript. (ji,) (Entered: 02/14/2005)

02/17/2005 -- Minute Entry for proceedings held before Judge Patty Shwartz : Telephone Conference held on 2/17/2005. (aa,) (Entered: 02/18/2005)

02/22/2005 65 ORDER setting various deadlines regarding discovery; that the defendants' request for a 60 day extension of the discovery period is denied; that the defendants' request for permission to file a motion for leave to file an Amended Answer is denied w/out prejudice, etc.. Signed by Judge Patty Shwartz on 2/20/05. (dc,) (Entered: 02/22/2005)

03/02/2005 66 NOTICE of Appearance by MARA E. ZAZZALI on behalf of WYETH (ZAZZALI, MARA) (Entered: 03/02/2005)

03/07/2005 67 ORDER setting various deadlines regarding discovery and document production. Signed by Judge Patty Shwartz on 3/7/05. (dc,) (Entered: 03/07/2005)

03/09/2005 68 TRANSCRIPT of Proceedings held on 2/17/2005 before Judge Shwartz. PLEASE NOTE: The complete transcript of these proceedings is maintained in paper format on file in the Clerks Office. To request copies of this transcript, contact the Official Court Reporter or Transcription Service who prepared the transcript. (ji,) (Entered: 03/09/2005)

03/14/2005 69 CONSENT ORDER re 67 Order. Signed by Judge Patty Shwartz on 3/14/05. (dc,) (Entered: 03/15/2005)

03/18/2005 70 ORDER REASSIGNING CASE. Case reassigned to Judge Faith S. Hochberg for all further proceedings. Judge Katharine S. Hayden no longer assigned to case. Signed by Judge John W. Bissell on 3/18/05. (dc,) (Entered: 03/18/2005)

03/22/2005 71 ORDER denying Teva's request to compel production of an unredacted version of Exhibit E1. Signed by Judge Patty Shwartz on 3/21/05. (dc,) (Entered: 03/22/2005)

03/23/2005 72 ORDER granting Teva's application for leave to adjust the Pretrial Scheduling Order pursuant to Rule 16 and to file a motion for leave to file Amended Answers to add the affirmative defense of unenforceability on the basis of the alleged "inequitable conduct", etc.. Signed by Judge Patty Shwartz on 3/22/05. (dc,) (Entered: 03/23/2005)

04/01/2005 73 MOTION for Leave to File Amended Answers by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD.. (Attachments: # 1 Text of Proposed Order)(PATUNAS, MICHAEL) (Entered: 04/01/2005)

04/01/2005 74 MOTION to Seal Materials by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD., TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD.. (Attachments: # 1 # 2)(PATUNAS, MICHAEL) (Entered: 04/01/2005)

04/01/2005 -- Set hearing as to 73 MOTION for Leave to File Amended Answers. Motion Hearing set for 4/25/2005 before Judge Faith S. Hochberg. Please be advised that this motion will be decided on the papers unless otherwise notified by the court. (dc,) (Entered: 04/06/2005)

04/01/2005 -- Set hearing as to 74 MOTION to Seal Materials. Motion Hearing set for 4/25/2005 before Judge Faith S. Hochberg. Please be advised that this motion will be decided on the papers unless otherwise notified by the court. (dc,) (Entered: 04/06/2005)

04/11/2005 75 MOTION to Seal by WYETH. (Attachments: # 1 Cover Letter Filing Motion to Seal# 2 Certification of K. McKenna In Support of Motion to Seal# 3 Text of Proposed Order Granting Plaintiff's Motion to Seal (Proposed)# 4 Certificate of Service)(MCKENNA, KEVIN) (Entered: 04/11/2005)

04/11/2005 -- Set hearing as to 75 MOTION to Seal. Motion Hearing set for 5/9/2005 before Judge Faith S. Hochberg. PLEASE BE ADVISED THAT THIS MOTION WILL BE DECIDED ON THE PAPERS UNLESS OTHERWISE NOTIFIED BY THE COURT. (dc,) (Entered: 04/12/2005)

04/11/2005 76 SEALED *** BRIEF IN OPPOSITION re 73 MOTION for Leave to File Amended Answers . (Attachments: # (1) Declaration# (2) Exhibits 1 through 7# (3) Exhibits 8 through 15# (4) Exhibits 16 through 22# (5) Exhibit 23# (6) Exhibits 24 through 25# (7) Text of Proposed Order # (8) Certificate of Service)(dc,) (Entered: 04/15/2005)

04/13/2005 -- Set Deadlines as to 75 MOTION to Seal. Motion Hearing set for 4/25/2005 11:30 AM in Newark - Courtroom 10 before Magistrate Judge Patty Shwartz. (aa-sl,) (Entered: 04/13/2005)

04/14/2005 78 ORDER adjourning hearing dates to 5/9/05 at 1:30 p.m. re 73 Motion, 74 Motion, and 75 Motion. Signed by Judge Patty Shwartz on 4/14/05. (dc,) (Entered: 04/20/2005)

04/19/2005 -- Reset Deadlines as to 73 MOTION for Leave to File Amended Answers, 74 MOTION to Seal

Materials, 75 MOTION to Seal. Motion Hearing set for 5/9/2005 01:30 PM in Newark - Courtroom 10 before Magistrate Judge Patty Shwartz. (aa,) (Entered: 04/19/2005)

04/19/2005 77 NOTICE of Appearance by EILEEN QUINN STEINER on behalf of WYETH (STEINER, EILEEN) (Entered: 04/19/2005)

04/22/2005 79 ORDER directing the parties to submit a joint letter by 4/29/05 that sets forth (1) the materials they want filed under seal; (2) whether or not they are prepared to file redacted materials; and the case law or statutory authority to seal the materials under the circumstances of this case. re 74 MOTION to Seal Materials filed by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD., 75 MOTION to Seal filed by WYETH. Signed by Judge Patty Shwartz on 4/22/05. (dc,) Modified on 4/25/2005 (dc,). (Entered: 04/25/2005)

05/09/2005 -- Minute Entry for proceedings held before Judge Patty Shwartz : Motion Hearing held on 5/9/2005 re 74 MOTION to Seal Materials filed by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD., 75 MOTION to Seal filed by WYETH,. (Tape #S05-6.) (aa,) (Entered: 06/03/2005)

05/10/2005 -- ORDER. Signed by Judge Patty Shwartz on 5/9/05. (dc,). THIS DOCUMENT HAS BEEN WITHDRAWN. PLEASE REFER TO DOCKET ENTRY NO. 84 ORDER. (dc). (Entered: 05/10/2005)

05/10/2005 81 ORDER denying 74 Motion to Seal, 75 Motion to Seal, and vacating portions of 26 Protective Order, etc.. Signed by Judge Patty Shwartz on 5/9/05. (dc,) (Entered: 05/10/2005)

05/10/2005 82 ORDER ON INFORMAL APPLICATION AND AMENDEDMENT TO THE PRETRIAL SCHEDULING ORDERDispositive Motions due by 9/30/2005. Markman Hearing set for 10/24/2005 10:00 AM before the Hon. Faith S. Hochberg, etc..Signed by Judge Patty Shwartz on 5/9/05. (dc,) (Entered: 05/10/2005)

05/13/2005 83 ORDER denying 73 Motion for Leave to File . Signed by Judge Patty Shwartz on 05/09/05. (dc,) (Entered: 05/13/2005)

05/16/2005 84 ORDER, Ordered that Entry No. [80] shall be struck and the Order that is attached to Docket Entry No. 80 is withdrawn. Signed by Judge Patty Shwartz on 5/13/05. (dc,) (Entered: 05/16/2005)

05/23/2005 85 TRANSCRIPT of Proceedings held on May 9, 2005 before Judge Shwartz. PLEASE NOTE: The complete transcript of these proceedings is maintained in paper format on file in the Clerks Office. To request copies of this transcript, contact the Official Court Reporter or Transcription Service who prepared the transcript. (ji,) (Entered: 05/23/2005)

05/24/2005 86 ORDER: Status Conference set for 6/14/2005 02:00 PM in Newark - Courtroom 1 before Judge Faith S. Hochberg. Pre-conference report due 6/9/2005. Signed by Judge Faith S. Hochberg on 5/24/2005. (lm,) (Entered: 05/24/2005)

05/27/2005 87 APPEAL OF MAGISTRATE JUDGE DECISION to District Court by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD. (Attachments: # 1 Brief # 2 Declaration of Michael E. Patunas# 3 Exhibit A to Declaration of Michael E. Patunas# 4 Text of Proposed Order # 5 Certificate of Service)(LITE, ALLYN) (Entered: 05/27/2005)

05/27/2005 88 APPLICATION/PETITION for by WYETH. (Attachments: # 1 Certification of Kevin McKenna in Support of pro hac vice admission of Arie Michelshon# 2 Certification of Arie Michelshon in Support of pro hac vice application# 3 Text of Proposed Order Admitting Arie Michelsohn pro hac vice)(MCKENNA, KEVIN) (Entered: 05/27/2005)

05/27/2005 89 APPLICATION/PETITION for by WYETH. (Attachments: # 1 Certification of Kevin McKenna in support of pro hac vice admission of Robert Pollock# 2 Certification of Robert A. Pollock in support of pro hac vice application# 3 Text of Proposed Order for Admission of Robert Pollock pro hac vice)(MCKENNA, KEVIN) (Entered: 05/27/2005)

05/27/2005 -- CLERK'S OFFICE QUALITY CONTROL MESSAGE - The Appeal of Magistrate Judge Decision (Doc. #87) submitted by Allyn Lite on 5/27/05 did not contain a proper signature. Only Registered Users are permitted to sign electronically filed documents with an s/. Please resubmit the document with a proper electronic (s/Allyn Lite) or scanned signature by 6/3/05. This submission will remain on the docket unless otherwise ordered by the court. This message is for informational purposes only. (dc,) (Entered: 06/01/2005)

06/02/2005 90 APPEAL OF MAGISTRATE JUDGE DECISION to District Court by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD. (Attachments: # 1 Brief # 2 Declaration of Michael E. Patunas# 3 Exhibit A to Declaration of Michael E. Patunas# 4 Text of Proposed Order # 5 Certificate of Service)(PATUNAS, MICHAEL) (Entered: 06/02/2005)

06/02/2005 -- Setting motion hearing as to 90 APPEAL OF MAGISTRATE JUDGE DECISION to District Court by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD. Motion Hearing set for 6/27/2005 10:00 AM before Judge Faith S. Hochberg. Please be advised that

this motion will be decided on the papers unless otherwise notified by the court(cs,) (Entered: 06/06/2005)

06/02/2005 -- Minute Entry for proceedings held before Judge Patty Shwartz : Telephone Conference held on 6/2/2005. (aa,) (Entered: 06/08/2005)

06/03/2005 91 ORDER that other than the expert depositions of Dr. Sawchuk and Rhodes, and other expert depositions that the parties agree to postpone shall be completed no later than 6/29/05; depositions agreed to be taken after 6/29/05 shall be completed no later than 7/11/05; denying the request to take the deposition of Mr. Carmon w/out prejudice etc. Signed by Judge Patty Shwartz on 6/2/05. (cs,) (Entered: 06/03/2005)

06/06/2005 -- Set Deadlines as to 90 APPEAL OF MAGISTRATE JUDGE DECISION to District Court by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD. Responses due by 6/13/2005. Replies due by 6/20/2005. Motion returnable 6/27/2005 before Judge Faith S. Hochberg. PARTIES ARE ADVISED THAT THE MOTION WILL BE HEARD ON THE PAPERS AND THAT NO APPEARANCE IS NECESSARY UNLESS OTHERWISE NOTIFIED BY THE COURT. (lm,) (Entered: 06/06/2005)

06/06/2005 92 ORDER ON INFORMAL APPLICATION Ordered that applications concerning Mr. Nixon's qualifications and the propriety of rendering opinions about the USPTO shall be preserved as in limine applications and listed in the joint proposed final pretrial order; that challenges to Mr. Nixon's report concerning inequitable conduct are denied, and that the request to stike Mr. Nixon's report concerning claims construction offered regarding the infringement analysis is denied. Signed by Judge Patty Shwartz on 6/6/05. (dc,) (Entered: 06/07/2005)

06/13/2005 93 Plaintiff's Brief by WYETH. (Attachments: # 1 Appendix of Unreported Decisions# 2 Certification of Eileen Q. Steiner in Support of Wyeth Response to Teva Appeal# 3 Exhibit 1-5 of Steiner Decl.# 4 Exhibit 6-13 of Steiner Decl.# 5 Exhibit 14-20 of Steiner Decl.# (6) Sealed *** Exhibit 21 of Steiner Decl.# 7 Exhibit 22-23 of Steiner Decl.# 8 Certificate of Service)(MCKENNA, KEVIN) Modified on 6/15/2005 (dc,). (Entered: 06/13/2005)

06/20/2005 94 RESPONSE to Motion re 90 APPEAL OF MAGISTRATE JUDGE DECISION to District Court by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD. filed by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD.. (Attachments: # 1 Declaration of Michael E. Patunas# 2 Certificate of Service)(PATUNAS, MICHAEL) (Entered: 06/20/2005)

06/23/2005 95 MOTION for Leave to File a Sur-Reply in Opposition to Defendants' Appeal From Order of Magistrate Judge Shwartz Denying Leave to File Amended Answers by WYETH. (Attachments: # 1 Brief Plaintiff's Memorandum in Support of Motion for Leave to File a Sur-Reply in Opposition to Defendants' Appeal From Magistrate Judge Shwartz's Order Denying Leave to File Amended Answers# 2 Certification Declaration of Eileen Quinn Steiner in Support of Wyeth's Motion for Leave to File Sur-Reply# 3 Text of Proposed Order Granting Plaintiff's Motion for Leave to File a Sur-Reply# 4 Certificate of Service)(MCKENNA, KEVIN) (Entered: 06/23/2005)

06/23/2005 -- Set hearing as to 95 MOTION for Leave to File a Sur-Reply in Opposition to Defendants' Appeal From Order of Magistrate Judge Shwartz Denying Leave to File Amended Answers. Motion Hearing set for 7/25/2005 before Judge Faith S. Hochberg. PLEASE BE ADVISED THAT THIS MOTION WILL BE DECIDED ON THE PAPERS UNLESS OTHERWISE NOTIFIED BY THE COURT. (dc,) (Entered: 06/27/2005)

07/01/2005 96 ORDER REASSIGNING CASE. Case reassigned to Judge William J. Martini for all further proceedings. Judge Faith S. Hochberg no longer assigned to case. Signed by Judge John W. Bissell on 6/29/05. (dc,) (Entered: 07/01/2005)

07/06/2005 97 Letter from Lite DePalma Greenberg & Rivas. (PATUNAS, MICHAEL) (Entered: 07/06/2005)

07/07/2005 98 Letter from Lite DePalma Greenber g& Rivas to Judge Martini. (PATUNAS, MICHAEL) (Entered: 07/07/2005)

07/07/2005 99 Letter from Lite DePalma Greenberg & Rivas to Judge Shwartz. (PATUNAS, MICHAEL) (Entered: 07/07/2005)

07/13/2005 -- Minute Entry for proceedings held before Judge Ronald J. Hedges : Scheduling Conference held on 7/13/2005. (nm,) (Entered: 07/13/2005)

07/13/2005 100 Proposed Pretrial Order by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD.. (LITE, ALLYN) (Entered: 07/13/2005)

07/13/2005 -- CLERK'S OFFICE QUALITY CONTROL MESSAGE - The Proposed Order (Doc. #100) submitted by A. Lite on 7/13/05 must be executed by a Judicial Officer before filing. Please forward to the appropriate Judicial Officer in accordance with his/her preferred practice. This submission will remain on the docket unless otherwise ordered by the Court. This message is for informational purposes only. (dc,) (Entered: 07/18/2005)

07/21/2005 101 Minute Entry for proceedings held before Judge William J. Martini : Status Conference held on 7/21/2005. (gh-sl,) (Entered: 07/22/2005)

07/21/2005 102 ORDER scheduling Markman Hearing and Non-Jury trial, etc. Signed by Judge William J. Martini on 7/21/05. (gh-sl,) (Entered: 07/22/2005)

07/21/2005 103 ORDER adjourning the final pretrial conference in this action without date. the final pretrial conference shall proceed in accordance with Judge Martini's form of final pretrial order, etc.. Signed by Judge Ronald J. Hedges on 7/21/05. (dc,) (Entered: 07/25/2005)

07/25/2005 104 Letter from Kevin McKenna enclosing Joint Submission of Claim Construction Chart. (MCKENNA, KEVIN) (Entered: 07/25/2005)

07/29/2005 105 MOTION to Seal Document by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD.. (Attachments: # 1 Declaration of Michael E. Patunas# 2 Text of Proposed Order)(PATUNAS, MICHAEL) (Entered: 07/29/2005)

07/29/2005 106 DECLARATION of Daryl Wiesen by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD.. (Attachments: # (1) con't Declaration of D Wiesen with Exhibits 5-10# (2) con't Declaration of D Wiesen with Exhibits 11-15# (3) con't Declaration of D Wiesen with Exhibits 16-17# (4) con't Declaration of D Wiesen with Exhibits 18-26)(PATUNAS, MICHAEL) (Entered: 07/29/2005)

07/29/2005 107 MOTION to Seal Materials by WYETH. (Attachments: # 1 Certification of Kevin McKenna in Support of Motion to Seal# 2 Text of Proposed Order # 3 Certification of Service)(MCKENNA, KEVIN) (Entered: 07/29/2005)

07/29/2005 -- Set hearings as to 105 MOTION to Seal Document, 107 MOTION to Seal Materials. Motion Hearings set for 9/12/2005 before Judge William J. Martini. PLEASE BE ADVISED THAT THESE MOTIONS WILL BE DECIDED ON THE PAPERS UNLESS OTHERWISE NOTIFIED BY THE COURT. (dc,) (Entered: 08/01/2005)

07/29/2005 133 *SEALED* MEMORANDUM OF TEVA DEFENDANTS ON CLAIM CONSTRUCTION filed by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD., re 105 Motion to Seal Document, 116 Order. (Attachments: # (1) *SEALED* DECLARATION OF DARYL L. WIESEN)(dc,). (Entered: 09/21/2005)

07/29/2005 134 *SEALED* DECLARATION of EILEEN QUINN STEINER by WYETH, w/various exhibits maintained under seal in the Clerk's Office Vault re 107 Motion to Seal, 117 Order. (Attachments: # (1) *SEALED* WYETH'S OPENING MARKMAN BRIEF)(dc,) (Entered: 09/21/2005)

08/02/2005 108 MOTION to Seal Plaintiff's Opposition Markman Brief and the materials relied upon therein by WYETH. (Attachments: # 1 Certification of Kevin J. McKenna# 2 Text of Proposed Order # 3 Certificate of Service # 4 Letter to Clerk)(MCKENNA, KEVIN) (Entered: 08/02/2005)

08/02/2005 109 MOTION to Seal Document by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD.. (Attachments: # 1 Certification of M Patunas# 2 Text of Proposed Order # 3 Certificate of Service)(PATUNAS, MICHAEL) (Entered: 08/02/2005)

08/02/2005 -- Set hearings as to 109 MOTION to Seal Document, 108 MOTION to Seal Plaintiff's Opposition Markman Brief and the materials relied upon therein. Motion Hearings set for 9/12/2005 before Judge William J. Martini. PLEASE BE ADVISED THAT THIS MOTION WILL BE DECIDED ON THE PAPERS UNLESS OTHERWISE NOTIFIED BY THE COURT. (dc,) (Entered: 08/04/2005)

08/02/2005 135 *SEALED* OPPOSITION MEMORANDUM OF TEVA DEFENDANTS filed by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD. re 109 Motion to Seal Document, 119 Order. (Attachments: # (1) *SEALED* DECLARATION OF MICHAEL E. PATUNAS, w/Exhibits 1 through 19 maintained under seal in the Clerk's Office vault.)(dc,). (Entered: 09/21/2005)

08/02/2005 136 *SEALED* WYETH'S OPPOSITION MARKMAN BRIEF filed by WYETH re 108 Motion to Seal, 118 Order. (Attachments: # (1) *SEALED* DECLARATION OF KEVIN J. MCKENNA, w/the following exhibits maintained under seal: # (2) Exhibit 49# (3) Exhibit 51# (4) Part 2, Exhibit 51# (5) Part 3, Exhibit 51# (6) Exhibits 53 through 56# (7) Exhibit 57# (8) Exhibit 58# (9) Part 2, Exhibit 58# (10) Part 3, Exhibit 58# (11) Exhibit List# (12) Part 4, Exhibit 58)(dc,) (Entered: 09/21/2005)

08/03/2005 110 OPINION re 87 APPEAL OF MAGISTRATE JUDGE DECISION to District Court by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD. filed by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD., . Signed by Judge William J. Martini on 8/3/05. (gh,) (Entered: 08/03/2005)

08/03/2005 111 ORDER affirming the Magistrate re 90 APPEAL OF MAGISTRATE JUDGE DECISION to District Court by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD. filed by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD., . Signed

by Judge William J. Martini on 8/3/05. (gh,) (Entered: 08/03/2005)

08/03/2005 112 ORDER granting 95 Motion for Leave to File Sur-Reply. Signed by Judge William J. Martini on 8/3/05. (gh,) (Entered: 08/03/2005)

08/11/2005 113 SCHEDULING ORDER regarding pretrial submissions, etc. Signed by Judge William J. Martini on 8/11/05. (gh,) (Entered: 08/11/2005)

08/25/2005 114 ORDER granting re 88 Application to admit Arie M. Michelsohn, Esq., pro hac vice . Signed by Judge William J. Martini on 8/25/05. (gh,) (Entered: 08/25/2005)

08/25/2005 115 ORDER granting re 89 Application to admit Robert A. Pollock, Esq., pro hac vice . Signed by Judge William J. Martini on 8/25/05. (gh,) (Entered: 08/25/2005)

08/25/2005 116 ORDER granting 105 Motion to Seal Document [106] Declaration, . Signed by Judge William J. Martini on 8/25/05. (gh,) (Entered: 08/25/2005)

08/25/2005 117 ORDER granting 107 Motion to Seal (Opening Markman Brief of Wyeth) etc . Signed by Judge William J. Martini on 8/25/05. (gh,) (Entered: 08/25/2005)

08/25/2005 118 ORDER granting 108 Motion to Seal (Opposition Markman Brief of Wyeth) etc. Signed by Judge William J. Martini on 8/25/05. (gh,) (Entered: 08/25/2005)

08/25/2005 119 ORDER granting 109 Motion to Seal Document (Declaration of Michael E. Patunas of 8/2/05 & Opposition Memorandum of Teva) . Signed by Judge William J. Martini on 8/25/05. (gh,) (Entered: 08/25/2005)

08/29/2005 120 MOTION for Leave to Appear Pro Hac Vice by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD.. (Attachments: # 1 Certification of Thomas L. Creel# 2 Text of Proposed Order # 3 Letter to Judge Martini)(PATUNAS, MICHAEL) (Entered: 08/29/2005)

08/29/2005 -- CLERKS OFFICE QUALITY CONTROL MESSAGE - The Motion to Appera Pro Hac Vice document number 120 filed by M. Patunas on 8/29/05 was submitted incorrectly as a Motion to Appear Pro Hac Vice. PLEASE RESUBMIT BY 9/2/05 USING "Other Documents" as the Category and "Certification" as the correct event*. This submission will remain on the docket unless otherwise ordered by the court. (cs,) (Entered: 08/30/2005)

08/29/2005 121 Minute Entry for proceedings held before Judge William J. Martini : Markman Hearing held on 8/29/2005. (Court Reporter Walter Perelli.) (gh,) (Entered: 08/31/2005)

08/30/2005 122 ORDER granting re 120 MOTION for Leave to Appear Pro Hac Vice of Thomas L. Creel, Esq . Signed by Judge William J. Martini on 8/30/05. (gh,) (Entered: 08/31/2005)

08/30/2005 123 TRANSCRIPT of Proceedings held on August 29, 2005 before Judge Martini. Court Reporter: Walter J. Perelli. PLEASE NOTE: The complete transcript of these proceedings is maintained in paper format on file in the Clerks Office. To request copies of this transcript, contact the Official Court Reporter or Transcription Service who prepared the transcript. (ji,) (Entered: 09/01/2005)

09/06/2005 124 MARKMAN OPINION . Signed by Judge William J. Martini on 9/6/05. (gh,) (Entered: 09/06/2005)

09/06/2005 125 MARKMAN ORDER re: 4 disputed terms. Signed by Judge William J. Martini on 9/6/05. (gh,) (Entered: 09/06/2005)

09/07/2005 -- Pro Hac Vice fee: \$ 150, receipt number 331422 for THOMAS L. CREEL. (dc,) (Entered: 09/08/2005)

09/09/2005 126 CONSENT ORDER modifying the Stipulation and Protective Order entered on 1/23/04, etc . Signed by Judge William J. Martini on 9/9/05. (gh,) (Entered: 09/12/2005)

09/16/2005 127 MOTION to Seal Document by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD.. (Attachments: # 1 Declaration of Michael E. Patunas# 2 Affidavit of Deborah Jaskot# 3 Text of Proposed Order)(PATUNAS, MICHAEL) (Entered: 09/16/2005)

09/16/2005 128 MOTION to Seal Document by WYETH. (Attachments: # 1 Notice of Motion# 2 Certification of Kevin J. McKenna# 3 Text of Proposed Order # 4 Certification of Service)(MCKENNA, KEVIN) (Entered: 09/16/2005)

09/16/2005 -- Set hearings as to 127 MOTION to Seal Document, 128 MOTION to Seal Document. Motion Hearing set for 10/11/2005 before Judge William J. Martini. PLEASE BE ADVISED THAT THIS MOTION WILL BE DECIDED ON THE PAPERS UNLESS OTHERWISE NOTIFIED BY THE COURT. (dc,) (Entered: 09/20/2005)

09/19/2005 129 MOTION for Summary Judgment Application for Emergency Relief by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD.. (Attachments: # 1 Text of Proposed

Order # 2 Exhibit A to Brief# 3 Text of Proposed Order # 4 Certificate of Service)(LITE, ALLYN) (Entered: 09/19/2005)

09/19/2005 -- Set hearing as to 129 MOTION for Summary Judgment Application for Emergency Relief. Motion Hearing set for 10/24/2005 before Judge William J. Martini. PLEASE BE ADVISED THAT THIS MOTION WILL BE DECIDED ON THE PAPERS UNLESS OTHERWISE NOTIFIED BY THE COURT. (dc,) (Entered: 09/20/2005)

09/20/2005 130 RESPONSE in Opposition re 129 MOTION for Summary Judgment Application for Emergency Relief filed by WYETH. (Attachments: # 1 Brief in Opposition to Teva Emergent Application to Strike Wyeth R. 56.1 Statement# 2 Exhibit 1 to Wyeth Brief in Opposition# 3 Text of Proposed Order # 4 Certificate of Service)(MCKENNA, KEVIN) (Entered: 09/20/2005)

09/20/2005 131 MOTION for Reconsideration by WYETH. (Attachments: # 1 Notice of Motion for Partial Reargument# 2 Brief in Support Motion for Partial Reargument# 3 Certification Eileen Quinn Steiner# 4 Text of Proposed Order # 5 Certificate of Service)(MCKENNA, KEVIN) (Entered: 09/20/2005)

09/20/2005 132 TRANSCRIPT of Proceedings held on September 20, 2005 before Judge Martini. Court Reporter: Walter J. Perelli. PLEASE NOTE: The complete transcript of these proceedings is maintained in paper format on file in the Clerks Office. To request copies of this transcript, contact the Official Court Reporter or Transcription Service who prepared the transcript. (ji,) (Entered: 09/21/2005)

09/20/2005 -- Set hearing as to 131 MOTION for Reconsideration. Motion Hearing set for 10/24/2005 before Judge William J. Martini. PLEASE BE ADVISED THAT THIS MOTION WILL BE DECIDED ON THE PAPERS UNLESS OTHERWISE NOTIFIED BY THE COURT. (dc,) (Entered: 09/23/2005)

09/20/2005 137 Minute Entry for proceedings held before Judge William J. Martini : In Chambers Conference plus motion to strike Rule 56 Statement, held on 9/20/2005. (Court Reporter Walter Perelli.) (gh,) (Entered: 09/27/2005)

09/22/2005 138 Minute Entry for proceedings held before Judge William J. Martini : Settlement Conference held on 9/22/2005. (gh,) (Entered: 09/27/2005)

09/28/2005 139 MOTION to Seal Document by WYETH. (Attachments: # 1 Certification of Kevin J. McKenna in Support# 2 Text of Proposed Order # 3 Certificate of Service)(MCKENNA, KEVIN) (Entered: 09/28/2005)

09/28/2005 140 MOTION to Seal Document by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD.. (Attachments: # 1 Certification of Michael E. Patunas# 2 Text of Proposed Order)(PATUNAS, MICHAEL) (Entered: 09/28/2005)

09/28/2005 -- Set hearings as to 139 MOTION to Seal Document, 140 MOTION to Seal Document. Motion Hearings set for 10/24/2005 before Judge William J. Martini. PLEASE BE ADVISED THAT THESE MOTIONS WILL BE DECIDED ON THE PAPERS UNLESS OTHERWISE NOTIFIED BY THE COURT. (dc,) (Entered: 09/29/2005)

09/29/2005 141 MOTION to Seal Document by WYETH. (Attachments: # 1 Certification of Kevin J. McKenna in Support# 2 Text of Proposed Order # 3 Certificate of Service)(STEINER, EILEEN) (Entered: 09/29/2005)

09/29/2005 142 MOTION in Limine by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD.. (Attachments: # 1 Brief # 2 Brief # 3 Brief # 4 Brief # 5 Text of Proposed Order)(LITE, ALLYN) (Entered: 09/29/2005)

09/29/2005 143 MOTION to Seal Document by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD.. (Attachments: # 1 Declaration of Michael E. Patunas# 2 Text of Proposed Order)(PATUNAS, MICHAEL) (Entered: 09/29/2005)

09/29/2005 -- Set hearings as to 141 MOTION to Seal Document, 142 MOTION in Limine, 143 MOTION to Seal Document. Motion Hearings set for 10/24/2005 before Judge William J. Martini. PLEASE BE ADVISED THAT THIS MOTION WILL BE DECIDED ON THE PAPERS UNLESS OTHERWISE NOTIFIED BY THE COURT. (dc,) (Entered: 10/05/2005)

09/30/2005 144 MOTION to Seal Document by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD.. (Attachments: # 1 Declaration of Michael E. Patunas# 2 Text of Proposed Order)(PATUNAS, MICHAEL) (Entered: 09/30/2005)

09/30/2005 145 STATEMENT by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD.. (Attachments: # 1)(PATUNAS, MICHAEL) (Entered: 09/30/2005)

09/30/2005 146 MOTION to Seal Document by WYETH. (Attachments: # 1 Certification Kevin J. McKenna, Esq. in Support# 2 Text of Proposed Order # 3 Certificate of Service)(MCKENNA, KEVIN) (Entered: 09/30/2005)

09/30/2005 -- Set hearings as to 144 MOTION to Seal Document, 146 MOTION to Seal Document. Motion Hearing set for 10/24/2005 before Judge William J. Martini. PLEASE BE ADVISED THAT THIS MOTION WILL BE DECIDED ON THE PAPERS UNLESS OTHERWISE NOTIFIED BY THE COURT. (dc,) (Entered: 10/05/2005)

10/04/2005 -- Minute Entry for proceedings held before Judge Ronald J. Hedges : Final Pretrial Conference held on 10/4/2005. (nm,) (Entered: 10/05/2005)

10/06/2005 147 LETTER OPINION re 131 MOTION for Reconsideration filed by WYETH, . Signed by Judge William J. Martini on 10/6/05. (gh,) (Entered: 10/06/2005)

10/06/2005 148 ORDER denying 131 Motion for Reconsideration . Signed by Judge William J. Martini on 10/06/05. (gh,) (Entered: 10/06/2005)

10/06/2005 149 RESPONSE in Opposition re 142 MOTION in Limine of Teva filed by WYETH. (Attachments: # 1 Brief In Opposition to Teva In Limine No. 1# 2 Brief In Opposition to Teva In Limine No. 2# 3 Brief In Opposition to Teva In Limine No. 3# 4 Brief In Opposition To Teva In Limine No. 4# 5 Brief In Opposition to Teva In Limine No. 5# 6 Brief In Oppsition to Teva In Limine No. 6# (7) Brief In Opposition to Teva In Limine No. 7 part 1# (8) Brief In Opposition to Teva In Limine No. 7 part 2# (9) Brief In Opposition to Teva In Limine No. 7 part 3# (10) Brief In Opposition to Teva In Limine No. 7 part 4# 11 Brief In Opposition to Teva In Limine No. 8)(MCKENNA, KEVIN) (Entered: 10/06/2005)

10/06/2005 150 MOTION to Seal Document by WYETH. (Attachments: # 1 Certification of Kevin J. McKenna In Support of Sealing Wyeth Pretrial Brief# 2 Text of Proposed Order)(MCKENNA, KEVIN) (Entered: 10/06/2005)

10/06/2005 152 Minute Entry for proceedings held before Judge William J. Martini : Telephone Conference regarding trial held on 10/6/2005. (gh,) (Entered: 10/07/2005)

10/07/2005 -- Remark: PLEASE NOTE: NON-JURY TRIAL TO COMMENCE ON OCTOBER 12, 2005 AT 9:30 AM (gh,) (Entered: 10/07/2005)

10/07/2005 151 BRIEF in Opposition re 141 MOTION to Seal Document Motion in Limine filed by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD.. (Attachments: # 1 # 2)(PATUNAS, MICHAEL) (Entered: 10/07/2005)

10/11/2005 153 ORDER Ordered that, due to the volume of the Final Joint Pretrial Order, the Final Joint Pretrial Order is not to be filed via CM/ECF but is to be filed manually under seal; that the Final Joint Pretrial Order is to remain under seal pending further order of the Court; that the Clerk of the Court is to note upon the docket the entry of the Final Joint Pretrial Order, and that a copy of this Order shall be served upon all counsel within (7) days of the date of the entry of this Order. Signed by Judge Ronald J. Hedges on 10/11/05. (dc,) (Entered: 10/11/2005)

10/11/2005 -- Remark:PLEASE NOTE: NON JURY TRIAL HAS BEEN ADJOURNED UNTIL TUESDAY, OCTOBER 18, 2005 AT 9:30 A.M. (gh,) (Entered: 10/11/2005)

10/11/2005 154 Minute Entry for proceedings held before Judge William J. Martini : Motion Hearing held on 10/11/2005 re 129 MOTION for Summary Judgment Application for Emergency Relief filed by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD - DECISION RESERVED. (Court Reporter Walter Perelli.) (gh,) (Entered: 10/11/2005)

10/12/2005 155 FINAL PRETRIAL ORDER (volume 1 - 8 placed in vault)***sealed. Signed by Judge Ronald J. Hedges on 10/11/2005. (mn,) (Entered: 10/12/2005)

10/14/2005 -- Remark: PLEASE NOTE: NON JURY TRIAL ADJOURNED WITHOUT DATE (gh,) (Entered: 10/14/2005)

10/14/2005 157 Minute Entry for proceedings held before Judge William J. Martini : Status Conference held on 10/14/2005. (gh,) (Entered: 10/31/2005)

10/19/2005 158 Minute Entry for proceedings held before Judge William J. Martini : Status Conference held on 10/19/2005. (gh,) (Entered: 10/31/2005)

10/24/2005 156 SCHEDULING ORDER. Signed by Judge William J. Martini on 10/24/05. (gh,) (Entered: 10/25/2005)

11/01/2005 159 MOTION to Seal Document by TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD.. (PATUNAS, MICHAEL) (Entered: 11/01/2005)

11/01/2005 160 MOTION to Seal Document Wyeth's Opposition to Teva Motion In Limine #7, Docket entry 149, Attachments 7-10 by WYETH. (STEINER, EILEEN) (Entered: 11/01/2005)

11/01/2005 -- Set hearing as to 159 MOTION to Seal Document, 160 MOTION to Seal Document Wyeth's Opposition to Teva Motion In Limine #7, Docket entry 149, Attachments 7-10. Motion Hearing set for 11/28/2005 before Judge William J. Martini. PLEASE BE ADVISED THAT THIS MOTION

WILL BE DECIDED ON THE PAPERS UNLESS OTHERWISE NOTIFIED BY THE COURT. (dc,) (Entered: 11/01/2005)

11/02/2005 161 ORDER granting 127 Motion to Seal Document, granting 128 Motion to Seal Document, granting 139 Motion to Seal Document, granting 140 Motion to Seal Document, granting 141 Motion to Seal Document, granting 143 Motion to Seal Document, granting 144 Motion to Seal Document, granting 146 Motion to Seal Document, granting 150 Motion to Seal Document, granting 159 Motion to Seal Document, granting 160 Motion to Seal Document; that due to the volume of the submissions to be filed under seal and the complexity of electronically filing such voluminous materials, the materials referenced herein are not to be filed via CM/ECF but are to be filed in paper form under seal. Signed by Judge Ronald J. Hedges on 11/2/05. (dc,) (Entered: 11/03/2005)

11/02/2005 162 ORDER SEALING MATERIALS granting Motions 127, 128, 141, 143, 144, 146, 150, 159, and 160. Signed by Judge Ronald J. Hedges on 11/2/05. (dc,) (Entered: 11/03/2005)

11/02/2005 163 CERTIFICATION of Michael E. Patunas on behalf of TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD. in support of various motions to seal materials. (dc,) (Entered: 11/03/2005)

12/06/2005 164 Joint MOTION to Seal Document by All Parties by WYETH. (Attachments: # 1 Certification of David A. Manspeizer in Support# 2 Certification of David Marshall In Support# 3 Text of Proposed Order to Seal)(MCKENNA, KEVIN) (Entered: 12/06/2005)

12/06/2005 -- Set hearing as to 164 Joint MOTION to Seal Document by All Parties. Motion Hearing set for 1/9/2006 before Judge William J. Martini. PLEASE BE ADVISED THAT THIS MOTION WILL BE DECIDED ON THE PAPERS UNLESS OTHERWISE NOTIFIED BY THE COURT. (dc,) (Entered: 12/07/2005)

12/07/2005 167 JOINT MOTION TO VACATE MARKMAN RULINGS, TO ENTER DISMISSAL ORDER, AND TO ENTER STIPULATED ORDER by WYETH, TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD.. (dc,) (Entered: 01/20/2006)

12/07/2005 -- Set hearing as to 167 MOTION to Vacate. Motion Hearing set for 1/9/2006 before Judge William J. Martini. PLEASE BE ADVISED THAT THIS MOTION WILL BE DECIDED ON THE PAPERS UNLESS OTHERWISE NOTIFIED BY THE COURT. (dc,) (Entered: 01/20/2006)

12/07/2005 169 STIPULATED ORDER for permanent injunction. Signed by Judge William J. Martini on 1/12/06. (dc,) (Attachment: #1 *SEALED* Settlement and Release Agreement) (dc) Modified on 1/20/2006 (dc,). (Entered: 01/20/2006)

12/20/2005 165 Minute Entry for proceedings held before Judge William J. Martini : Telephone Conference held on 12/20/2005. (gh,) (Entered: 12/21/2005)

01/12/2006 166 ORDER granting 164 Joint Motion to Seal Document. Signed by Judge William J. Martini on 1/12/06. (dc,) (Entered: 01/20/2006)

01/12/2006 168 ORDER granting 167 Joint Motion to Vacate Markman Rulings . Signed by Judge William J. Martini on 1/12/06. (dc,) (Entered: 01/20/2006)

01/20/2006 170 DISMISSAL ORDER. Signed by Judge William J. Martini on 1/12/06. (dc,) (Entered: 01/20/2006)

01/27/2006 171 Letter request from Eileen Quinn Steiner to have a copy of the {170} Dimissal Order forwarded to the Director of the U.S. Patent and Trademark Office. (dc,) (Entered: 01/30/2006)

02/07/2006 -- Remark - Copy of 170 Dismissal Order mailed to Director of the U. S. Patent and Trademark Office, Re [171} Letter. (dc,) (Entered: 02/07/2006)

EXHIBIT 2

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

WYETH INC., :
 : Civil Action No. 03-1293 (FSH)
 :
 Plaintiffs, :
 : Newark, New Jersey
 :
 vs. :
 :
 TEVA PHARMACEUTICALS, USA, : P.M. SESSION
 INC., et al., :
 :
 Defendants. : Monday, May 9, 2005

TRANSCRIPT OF MOTIONS
BEFORE THE HONORABLE PATTY SHWARTZ, U.S.M.J.

APPEARANCES:

FOR THE PLAINTIFF
WYETH:

BY: KEVIN J. MC KENNA, ESQ.,
(Gibbons, Del Deo, Dolan, Griffinger
& Vecchione)
One Riverfront Plaza
Newark, N.J. 07102
-- and --
BY: BASIL J. LEWRIS, ESQ.,
LINDA A. WADLER, ESQ.,
(Finnegan, Henderson, Farabow,
Garrett & Dunner)
901 New York Avenue, N.W.
Washington, D.C. 20001

FOR THE DEFENDANT
TEVA:

BY: MICHAEL E. PATUNAS, ESQ.,
(Lite, DePalma, Greenberg &
Rivas, LLC)
Two Gateway Center, 12th Floor
Newark, N.J. 07102
-- and --
BY: DARYL L. WIESEN, ESQ.,
(Goodwin Procter, LLP)
Exchange Place
53 State Street
Boston, Mass. 02109

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transcript produced by transcription service.

RAPID TRANSCRIPT SERVICE, INC.

4 Elodie Lane

Randolph, New Jersey 07869

(973) 328-1730 FAX (973) 328-8016

1 Effexor XR. See the amended answer at Paragraph 75 and 76.
2 Teva then goes on to state, quote, "upon information and
3 belief [Wyeth] misrepresented to the PTO a theoretical result
4 as a precisely quantified result on clinical studies with
5 intent to mislead or deceive the PTO." Amended answer at
6 Paragraph 78.

7 Looking at the deposition of Dr. Mangano, he
8 explains how Mr. Ortega Leone arrived at the conclusions in
9 the studies -- about the studies and the deponent stated,
10 quote, "looking at the percentage of patients reporting
11 vomiting in the 208 U.S, 209, 267 [sic] E.U. study, compared
12 to the venlafaxine IR treated patients in the 208 study and
13 said that the number of patients were 13 of 357 for the Ven
14 ER treating group; 16 of 96 for the ven IR group, and, again,
15 with a tri-squared analysis it is a statistically significant
16 difference; and similarly for the percentage of patients,
17 number of patients reporting nausea as a treatment emergent
18 study event in those three studies as well, where there were
19 110 of 357 patients treated with venlafaxine ER and 43 of 96
20 have been treated with venlafaxine IR, again, with a tri-
21 squared analysis, it was a statistically significant
22 difference with less nausea and vomiting for those patients
23 in the ER group relative to the IR group." See Mangano's
24 deposition at Page 26, Line 19 through Page 27, Line 17.

25 There appears to be no dispute that when the

1 studies are pooled, Wyeth's conclusions about the incidence -
2 - and, again, I'm using that in a common sense way, not in a
3 patent construction way -- about nausea and emesis 'n the ER
4 versus IR study was founded. The language of the patent
5 application does not say that each of the three taken
6 individually shows an improvement in incidence of nausea and
7 emesis in the venlafaxine ER versus IR. It certainly does
8 not exclude the connotations that the studies were pooled
9 together to support the conclusion, nor does Teva make that
10 assertion.

11 It has represented today it may offer expert
12 testimony regarding how such a statement would be understood,
13 but under a 12(b)(6) standard, the Court must look at the
14 statement and the information that's been offered to it.
15 Again, the Court is not making a ruling under Rule 15, but
16 wants to give the benefit of the record some observations.
17 In any event, when rephrasing the language of the patent
18 application, Teva gives the studies an active voice,
19 describing two eight week and one 12 week clinical studies
20 that showed -- I put that showed in quote and underline -- a
21 statistically significant improvement of the extended release
22 formulation over the conventional formulation. See its
23 amended answer at Paragraph 72.

24 Even under Teva's interpretation which is a
25 different representation of what the patent actually states,

1 the statement could still be accurate. The statement does
2 not say the isolated results of each study showed an
3 improvement in the incidence of nausea and emesis in the
4 venlafaxine ER versus IR. They name the three studies taken
5 together, it's been represented, support the statement's
6 conclusion and is not a misrepresentation. Therefore, the
7 Court is not sure that a reasonable examiner would find the
8 lack of information to have been material.

9 Thus, Teva's allegation, at least in my view, may
10 not have withstood a 12(b)(6) motion and the proposed
11 amendment would, therefore, have been deemed futile, had the
12 Court reached the Rule 15 analysis. Moreover, even if the
13 examiner would have understood the statement to mean that
14 each study separately yielded a statistically significant
15 result, the proposition that ER had a reduced incidence of
16 side effects, at least up until oral argument today, had
17 remained unchallenged. I now know that there is some dispute
18 as to the word incidence and whether that has a different
19 meaning, but up until this point, the Court was under the
20 impression the parties agreed that there were benefits in the
21 ER formulation over the IR, as it relates to this decreased
22 incidence, or event, or level, depending on what language
23 you're using, but that's for another day.

24 Teva had cited no cases where a
25 mischaracterization of such information would support --

EXHIBIT 3

Wadler, Linda

From: FAXSERVE
Sent: Monday, July 31, 2006 7:02 PM
To: Danna, Kay; Lewris, Bill; Norris, Amy; Wadler, Linda; Ford, Bonita; Alexander, Stephanie; Mersing, Jacob
Subject: HellerEhrman 1142.8085
Attachments: Fax Image.TIF



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07-83e0-4f582...

Attached to this message is a fax for your attention. To open it.. Click once on the icon below with your right mouse button. Then click on "OPEN". If you are prompted with a dialog box, please click on YES or OK.

The information included in this fax has been reviewed for docketing.

If you are listed in the "TO" field of this email you are responsible for ensuring that the attached fax is printed and placed in the appropriate case file, if necessary. If an acknowledgment is requested then the person in the "TO" field is also responsible for sending this item. (PMA)

Facsimile Transmittal

HellerEhrman LLP

333 Bush Street
San Francisco, CA 94104-2878
Main: +1.415.772.6000
Fax: +1.415.772.6268

To: Linda A. Wadler, Esq., Finnegan Henerson, et al., Washington, D.C.
Telephone: 1.202.408.4000 **Fax:** 1.202.408.4400

From: Samuel F. Ernst
Telephone: +1.415.772.6964

No. of Pages: 3 (including cover) 40443.0005 (8004)
Date: July 31, 2006

Message:

SF 1290979 v1
7/31/06 3:58 PM (40443.0005)

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Anchorage Beijing Hong Kong Los Angeles Madison, WI New York San Diego San Francisco Seattle
Silicon Valley Singapore Washington, D.C.

HellerEhrman_{LLP}

July 31, 2006

Via Facsimile & U.S. Mail

Samuel F. Ernst
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Fax +1.415.772.6268

40443.0005

Linda A. Wadler, Esq.
Finnegan Henderson Farabow Garrett
& Dunner LLP
901 New York Ave., NW
Washington, D.C. 20001-4413

Re: **Wyeth v. Impax Laboratories, Inc.**
U.S. District Court, District of Delaware, Civil Action No. 06-222 JJF

Dear Linda:

Because Wyeth has declined to agree to a modification of the Scheduling Order to allow the parties additional time to amend the pleadings, Impax requests that Wyeth produce the following discrete set of documents on an expedited basis, i.e., by Friday, August 4:

- Wyeth's New Drug Application No. 20-699 for Effexor XR, including the data in support of the three controlled clinical studies referenced in that Application: 600B-208-US, 600B-209-US, and 600B-367-EU.
- The transcripts from the depositions taken of the named inventors of the patents-in-suit in *Wyeth v. Teva Pharmaceuticals, USA, et al.* (No. 03-1293) ("Teva Litigation") and the transcripts from the depositions of Wyeth's 30(b)(6) witnesses in the Teva litigation, Dr. Mangano and Mr. Alaburda.
- The Proposed Amended Complaint submitted to the court by Teva in the Teva Litigation on or around April 1, 2005 as Exhibit D to a declaration of Lana Shvartsman.

These documents are responsive to Impax's Document Requests Nos. 3, 4, 29, and 48-50. They are, moreover, highly relevant to Impax's investigation into the potential defense of inequitable conduct.

There should be no reason to delay the immediate production of these documents. First, none of these documents should contain any information designated by Teva as confidential.

Heller Ehrman LLP 333 Bush Street San Francisco, CA 94104-2678 www.hellerehrman.com

Anchorage Beijing Hong Kong Los Angeles Madison, WI New York San Diego San Francisco Seattle
Silicon Valley Singapore Washington, D.C.

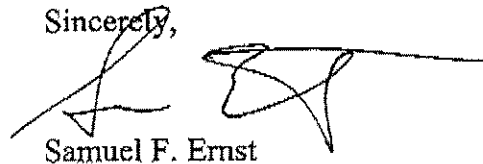
HellerEhrman_{LLP}

Linda A. Wadler, Esq.
July 31, 2006
Page 2

Second, in order to expedite the production of these documents, Impax is willing to set aside the parties' current disagreements regarding the format and costs of document productions. Specifically, Impax is willing to accept paper copies of these documents and to pay for the reasonable cost of producing these documents. To be clear, Impax does not waive its objections to Wyeth's insistence that documents be produced in TIFF format or hard copy or that Impax bear the costs of production with regard to the remainder of the documents Wyeth is obligated to produce in discovery. With regard to the discrete set of documents listed above, however, and due solely to the impending deadline for amendment of pleadings, Impax will accept paper copies and will pay for the reasonable cost of producing these documents.

Please let me know by this Wednesday, August 2 whether or not Wyeth will comply with this request. If not, we will move to compel and/or for an alteration in the Pretrial Schedule prior to the August 10 deadline.

Sincerely,

A handwritten signature in black ink, appearing to be 'S. Ernst', with a long horizontal line extending to the right.

Samuel F. Ernst

EXHIBIT 4

Wadler, Linda

From: Ernst, Samuel F. [Sam.Ernst@HellerEhrman.com]
Sent: Friday, August 04, 2006 4:44 PM
To: Wadler, Linda
Cc: Thayer, M. Patricia; Wolff, Jessica R.; Kassabian, Daniel N.; mmatterer@morrisjames.com
Subject: Wyeth v. Impax
Attachments: Docum001.pdf

Linda,
Please find the attached letter in response to your correspondence of August 2.
Regards,
Sam

Samuel F. Ernst | Attorney | **HellerEhrmanLLP** | 333 Bush Street | San Francisco, CA 94104
tel: +1.415.772.6964 | fax: +1.415.772.1759 | email: sam.ernst@hellerehrman.com | web: www.hellerehrman.com

<<Docum001.pdf>>

This e-mail is sent by a law firm and contains information that may be privileged an

8/23/2006

HellerEhrman_{LLP}

August 4, 2006

Via E-mail

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Sam.Ernst@hellerehrman.com
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40443.0005

Linda A. Wadler, Esq.
Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
901 New York Ave., NW
Washington, DC 2001

Re: *Wyeth v. Impax Laboratories, Inc.*, No. 06-222

Dear Linda:

This letter is in response to your letters of August 2, 2006.

Our offer to pay for the cost of Wyeth producing a discrete number of documents on an expedited basis was expressly contingent on Wyeth's agreement to produce the documents on an expedited basis. In your letter of August 2, you refused to produce those documents on an expedited basis. Accordingly, we will not be paying for the cost of their production.

Wyeth's position that Impax should bear the cost of its document productions in this case is unreasonable given the enormous size and resources of Wyeth relative to Impax. Wyeth must have known that it would incur costs for discovery production at the time it initiated this lawsuit. Wyeth has already incurred much of the cost of gathering and processing documents because it has already gathered and produced many of the same responsive documents for the Teva litigation and has those documents on hand ready for production, as evidenced by the fact that Wyeth knows the exact population of those documents. Impax will not pay for the cost of Wyeth's document productions absent a court order. There is no basis in the Federal Rules for Wyeth to use this dispute as an excuse to delay its document production.

There is no basis for your refusal to produce the small group of documents we requested on an expedited basis. You state that you will wait to produce the deposition transcripts of the named inventors of Wyeth's patents-in-suit until Teva responds to our letter inquiring whether those transcripts contain Teva confidential information. Wyeth knows whether or not the transcripts contain information designated by Teva as confidential. If they

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Silicon Valley	Singapore	Washington, D.C.						

HellerEhrman LLP

Linda A. Wadler, Esq.
August 4, 2006
Page 2

do not, Wyeth should so state. Indeed, it is unlikely that this inventor deposition testimony would include Teva confidential information.

Wyeth's NDA for Effexor XR and the data in support thereof certainly do not contain Teva confidential information, and the fact that these documents may contain a large number of pages should be no impediment to their immediate production. In answer to your letter of August 2, 2006 inquiring as to when we will produce Impax's ANDA No. 78-057 to Wyeth, we have produced a disc containing that ANDA today via Federal Express, notwithstanding the fact that it contains a large number of pages.

Nor does the Proposed Amended Answer submitted by Teva in the Teva litigation contain information Teva deems confidential. Teva moved to file that document and the other documents in support of its motion for leave to amend under seal because "[t]he materials that Defendants seek to seal include documents and information designated as 'confidential' by Plaintiff," not Defendant Teva. Certification of Michael E. Patunas of Apr. 1, 2005 ¶ 3, Doc. No. 74-2 in *Wyeth v. Teva Pharmaceuticals USA, Inc., and Teva Pharmaceutical Industries, Ltd.*, No. 03-1293 (D.N.J.) (emphasis added). Wyeth's refusal to produce this document immediately because it was filed under seal by Teva is, therefore, disingenuous. Wyeth can produce this document immediately as confidential pursuant to Local Civil Rule 26.2.

We also note that we provided a draft Protective Order to you on July 12 and that we have not received comments. Please let us know if Wyeth agrees to its terms. If not, we request to make this a topic of the meet and confer Mr. Kassabian requested for this coming Monday.

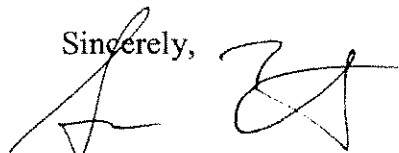
Wyeth's refusal to agree to a modification of the scheduling order pushing back the August 10 deadline to amend pleadings, in conjunction with the numerous barriers Wyeth has erected to prevent the timely production of documents, leave Impax little choice but to go to the Court for relief. We hope, however, that Wyeth will agree to one final telephonic meet and confer on Monday, August 7, as requested in Mr. Kassabian's letter of yesterday, to attempt to reach some sort of a compromise.

Regardless of whether Impax is able to obtain discovery from Wyeth prior to the August 10 deadline, we are prepared to file an Amended Answer and Counterclaim. Assuming Wyeth does not provide documents in a timely fashion, we will provide you with a proposed Amended Answer and Counterclaim early next week and ask that you either stipulate to its filing or indicate that Impax will be required to move for leave to amend.

HellerEhrman LLP

Linda A. Wadler, Esq.
August 4, 2006
Page 3

Sincerely,

A handwritten signature in black ink, appearing to be 'SE', written over the word 'Sincerely,'.

Samuel F. Ernst

EXHIBIT 5



901 New York Avenue, NW ▪ Washington, DC 20001-4413 ▪ 202.408.4000 ▪ Fax 202.408.4400
www.finnegan.com

ROBERT A. POLLOCK
202.408.4081
robert.pollock@finnegan.com

August 8, 2006

**LETTER ONLY VIA FACSIMILE
CONFIRMATION WITH ENCLOSURES
VIA FEDERAL EXPRESS**

Daniel N. Kassabian, Esq.
Heller Ehrman LLP
333 Bush Street
San Francisco, CA 94104

Wyeth v. Impax Laboratories, Inc., Civil Action No.: 06-222 (D. Del.)

Dear Daniel:

Further to Impax's letter of July 31, 2006, requesting paper copies of Wyeth's NDA No. 20-699, and as part of Wyeth's document production, I am enclosing as part of a rolling production thirteen boxes of documents containing the following range of production numbers:

WYETH 004-058754 - WYETH 004-060967;
WYETH 004-060969 - WYETH 004-061087;
WYETH 004-061090 - WYETH 004-061156;
WYETH 004-061163- WYETH 004-061174;
WYETH 004-061176 - WYETH 004-061188;
WYETH 004-061218 - WYETH 004-061572.1;
WYETH 004-061573 - WYETH 004-061942;
WYETH 004-062097 - WYETH 004-062105;
WYETH 004-062107 - WYETH 004-062339;
WYETH 004-062355 - WYETH 004-062497;
WYETH 004-062499 - WYETH 004-062677;
WYETH 004-062694 - WYETH 004-064022;
WYETH 004-064024 - WYETH 004-064122;
WYETH 004-064124 - WYETH 004-064198.1;
WYETH 004-064199 - WYETH 004-064205.1;
WYETH 004-064206 - WYETH 004-064207;
WYETH 004-064209 - WYETH 004-064214;
WYETH 004-064336 - WYETH 004-064371;
WYETH 004-064401 - WYETH 004-064642;
WYETH 004-064645 - WYETH 004-064646;

Daniel N. Kassabian, Esq.
August 8, 2006
Page 2

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

WYETH 004-064647;
WYETH 004-064649 - WYETH 004-064652;
WYETH 004-064656 - WYETH 004-064692.1;
WYETH 004-064693 - WYETH 004-064946.1;
WYETH 004-064947 - WYETH 004-065085;
WYETH 004-065118 - WYETH 004-065123;
WYETH 004-065150 - WYETH 004-066981;
WYETH 004-067409 - WYETH 004-069000;
WYETH 004-069002 - WYETH 004-069035.1;
WYETH 004-069036 - WYETH 004-069037.1;
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Daniel N. Kassabian, Esq.
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HENDERSON
FARABOW
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The enclosed documents are stamped CONFIDENTIAL or HIGHLY CONFIDENTIAL and SUBJECT TO PROTECTIVE ORDER. Until a formal protective order is in place, however, the enclosed documents should be maintained on an outside counsel eyes only basis pursuant to D. Del. L.R. 26.2.

With respect to your July 31, 2006 agreement to reimburse us for the reasonable cost of providing paper copies of NDA No. 20-699 and other selected documents, the cost for providing the enclosed documents is \$1,662.54 (6¢ per page). Please reimburse us promptly for this amount.

Sincerely,



Robert A. Pollock

RAP/amn

cc: Mary B. Matterer, Esq. (via Facsimile, without enclosures)
Richard K. Herrmann, Esq. (via Facsimile, without enclosures)